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July 15, 2004

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PUBLIC SERVICE  
COMMISSION

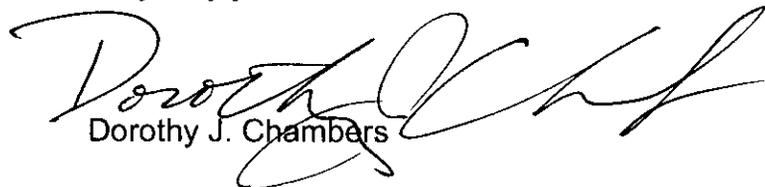
Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

Re: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC on Behalf of Its Operating Subsidiaries Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement With BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, As Amended  
PSC 2004-00044

Dear Ms. O'Donnell:

Enclosed for filing in the above-captioned case are the original and ten (10) copies of Joint Motion to Hold Proceeding in Abeyance filed by BellSouth and the Joint Petitioners.

Very truly yours,

  
Dorothy J. Chambers

Enclosures

cc: Parties of Record

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PUBLIC SERVICE  
COMMISSION

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION  
Case No. 2004-00044

<b>In the Matter of</b> ) <b>Joint Petition of NewSouth</b> ) <b>Communications Corp. et al. for</b> ) <b>Arbitration with BellSouth</b> ) <b>Telecommunications, Inc.</b> )	<b>JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE</b>
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**JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE**

NewSouth Communications Corp. ("NewSouth"), NuVox Communications, Inc. ("NuVox"), KMC Telecom V, Inc. and KMC Telecom III, LLC (collectively "KMC"), and Xspedius Communications, LLC on behalf of its operating subsidiary Xspedius Management Company Switched Services, LLC ("Xspedius") (collectively the "Joint Petitioners") and BellSouth Telecommunications, Inc. ("BellSouth") (together, the "Parties"), through their respective counsel, submit this Joint Motion to Hold Proceeding in Abeyance and hereby respectfully request that the Kentucky Public Service Commission (the "Commission") hold the above-captioned proceeding in abeyance for a period of ninety (90) days. In doing so, the Parties request that the Commission suspend all pending deadlines and consideration of all pending motions until after October 1, 2004. By this Joint Motion, and contingent upon a grant by the Commission of the relief requested herein, the Parties waive through June 2005 the deadline, under section 252(b)(4)(C) of the Act, 47 U.S.C. § 252(b)(4)(C), for final resolution by the Commission of the issues in this arbitration. In support of this Joint Motion, the Parties submit the following.

Joint Petitioners and BellSouth have engaged in the above-captioned arbitration proceeding since February 11, 2004. On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit, in *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir.2004) ("*USTA II*"), affirmed in part, and vacated and remanded in part, certain rules of the

Federal Communications Commission (“FCC”), pursuant to which incumbent LECs are obligated to provide to any requesting telecommunications carrier access to network elements on an unbundled basis. The D.C. Circuit initially stayed its *USTA II* mandate for a period of sixty (60) days. The stay of the *USTA II* mandate later was extended by the D.C. Circuit for a period of forty-five (45) days, until June 15, 2004 on which date the D.C. Circuit’s *USTA II* mandate issued. At this time, certain of the FCC’s rules applicable to BellSouth’s obligation to provide to Joint Petitioners network elements on an unbundled basis are vacated and the FCC is expected to issue new rules.

In light of these events, the Parties have agreed to the proposed 90-day abatement so that they can consider how the post *USTA II* regulatory framework should be incorporated into the new agreements currently being arbitrated and to identify what arbitration issues may be impacted and what additional issues, if any, need to be identified for arbitration. The Parties have agreed that no new issues may be raised in this arbitration proceeding other than those that result from the Parties’ negotiations regarding the post-*USTA II* regulatory framework.

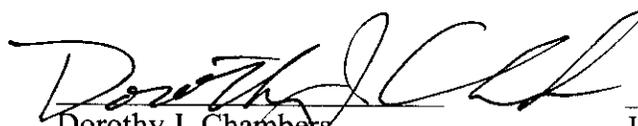
With this framework, the Joint Petitioners and BellSouth have agreed to avoid a separate/second process of negotiating/arbitrating change-of-law amendments to the current interconnection agreements to address *USTA II* and its progeny. Accordingly, the Parties have agreed that they will continue operating under their current Interconnection Agreements until they are able to move into the new arbitrated/negotiated agreements that ensue from this proceeding.

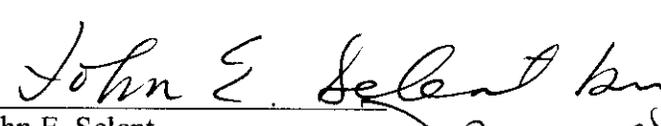
During this ninety (90) day period, the Parties also have agreed to continue their efforts to reduce the number of issues already identified. In this regard, the Parties have agreed to conduct multiple face-to-face negotiations.

Consistent with the foregoing, the Joint Petitioners and BellSouth hereby respectfully request that the Commission hold the above-captioned proceeding in abeyance for a period of ninety (90) days. In so doing, the Parties request that the Commission suspend all pending deadlines and consideration of all pending motions until after October 1, 2004. The Parties also jointly propose and request approval of the following revised procedural schedule.

October 15, 2004	Revised Issues Matrix
November 19, 2004	Direct Testimony (Simultaneous)
December 17, 2004	Reply Testimony (Simultaneous)
February 22-25, 2005	Hearing

Respectfully submitted,

  
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*J.C. by permission*

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Dated: July 15, 2004

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by mailing a copy thereof, this 15<sup>th</sup> day of July, 2004.

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